

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RONALD BENNETT,

Defendant.

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Case No. 3:13cr073

JUDGE WALTER H. RICE

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DECISION AND ENTRY SUSTAINING DEFENDANT'S MOTION TO  
RECUSE TRIAL JUDGE; DIRECTIONS TO CLERK OF COURTS OFFICE

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The motion of the Defendant, seeking an order of the Court recusing the undersigned trial judge (Doc. #41), is sustained, based upon the following reasoning.

1. Although the Court's motives were pure as the driven snow, it appears that it unintentionally violated Fed. R. Cr. P. 11 by suggesting a sentence which this Court would be comfortable imposing, after said Court had rejected the range proposed in the Plea Agreement between the Defendant and the Government.

2. The case law gives this Court little ability to distinguish between a Judge's intrusion into the plea bargaining process in advance of the plea, in violation of Rule 11, and the situation in the captioned cause, where a Plea Agreement, setting forth a suggested range of sentencing, was rejected by the trial judge at a sentencing hearing, based upon a review of all facts before him, including the testimony of victim witnesses, the memoranda of counsel and the presentence


investigation, and the Judge, thereafter, in the interest of aiding and assisting the parties in either drafting a new Plea Agreement or the Defendant in deciding whether to enter into such or proceeding to trial, opines as to a sentence he would be willing to impose.

3. Although the Court believes that it can unquestionably remain impartial, it cannot overlook the fact that its impartiality might reasonably be questioned by others, based upon comments made by the Court during the sentencing hearing and subsequent conference call with the parties.

4. This is not a situation where Defendant's counsel invited the error of which he complains. To the contrary, Defendant's counsel studiously avoided seeking the Court's input into what sentence would be acceptable to it; rather, the Court volunteered the information on its own.

WHEREFORE, this Court recuses itself from further proceedings in the captioned cause and, in so doing, directs the Office of the Clerk of Courts to reassign the captioned matter, preferably a Judge from the Cincinnati seat of court.

August 14, 2014

  
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WALTER H. RICE  
UNITED STATES DISTRICT JUDGE

Copies to:

Counsel of record